



## ***Planning Commission Meeting Minutes***

DATE: 11 July 2011

APPROVED BY: *fw3*

### **MINUTES OF THE LAKE COUNTY PLANNING COMMISSION June 28, 2011**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chair Pesec called the meeting to order at 7:02 p.m.

#### **ROLL CALL**

The following members were present: Messrs. Adams, Brotzman, Morse, Pegoraro, (alt. for Troy), Schaedlich, Siegel, Smith (alt. for Sines), Welch (alt. for Aufuldish), Zondag, and Mmes. Hausch and Pesec. Staff present: Messrs. Boyd, Radachy, and Ms. Truesdell.

#### **MINUTES**

Mr. Schaedlich said there were some corrections to the April, 2011 minutes:

Page 7 – “Mr. Schaedlich said there is really no end in site.” “site” should be changed to “sight.”

Page 12 – 4<sup>th</sup> bullet point should read, “Make sure the staff has the time to make those things like the BGI grant happen so that revenue can be produced from the Planning side.”

Page 13, 3<sup>rd</sup> paragraph, 5<sup>th</sup> sentence, “One of the big concerns is that we need to be”, (not ne) ....

Page 15, 4<sup>th</sup> paragraph, hyphenate “mid-to-late June”.

Page 15, last paragraph, hyphenate “five-to-seven”.

Ms. Hausch noted that Ms. Pesec was recorded as being present during roll call. However she did not arrive until later in the meeting after Vice Chair Hausch had started the meeting.

Mr. Schaedlich moved and Ms. Hausch seconded the motion to approve the May 31, 2011 minutes.

Eight voted “Aye”.  
Two abstained.

## FINANCIAL REPORT

### May 2011 Financial Report

Mr. Boyd said the June report will show a charge back for CDBG staff time. He anticipated receiving a \$10,000 check from ODNR for the current Balanced Growth Plan.

Mr. Siegel moved and Mr. Morse seconded the motion to approve the May, 2011 Financial Report.

All voted "Aye".

## PUBLIC COMMENT

There was no public comment.

## LEGAL REPORT

There was no legal report.

## DIRECTOR'S REPORT

Mr. Boyd was pleased to announce that the June 2011 Interim report on the *Balanced Growth Initiative Eastern Lake County Coastal Tributaries* is finished and will be mailed tomorrow. Community meetings have spurred positive discussion for the program itself but also the merits of planning on a watershed basis.

Mr. Boyd complimented Mr. Radachy for the successful Planning and Zoning Conference held on June 24<sup>th</sup> with 200 people in attendance. The largest attendance was on the subjects of signs, conditional uses, and agriculture, sexually oriented businesses, and internet cafes. Another interesting session was on small treatment facilities or package plants.

## ANNOUNCEMENT

There were no announcements.

## SUBDIVISION REVIEW

Mr. Radachy said the resubdivision of subplot 42, Cali Woods, Phase 2, was recorded.

## LAND USE AND ZONING REVIEW

There was no Land Use and Zoning meeting this month.

#### New Member: K. Miller, Concord Township

C. Richard Hullihen did not wish to be reappointed and Concord Township Trustees recommended that Kathy G. Miller replace him at the end of his term in August, 2011.

#### Reappointment: R. Constantine, R. Morse, Painesville Township

Painesville Township Board of Trustees asked that Richard Constantine and Richard Morse be reappointed to the Committee for the term starting August, 2011.

### REPORTS OF SPECIAL COMMITTEES

#### Consolidation Planning Committee (Transition Committee)

Mr. Boyd said the Board has heard Mr. Troy discuss consolidation of services throughout the County, one of which is combining the Community Development Block Grant (CDBG) office with the Planning Commission (PC) office. The Board has discussed entering into a Memorandum of Understanding (MOU) between the Planning Commission Board and the Board of County Commissioners. Mr. Boyd said the Commissioners consented for us to proceed with the MOU. Mr. Adams, Mr. Zondag, and Ms. Pesec (Transition Committee) have met on two occasions to discuss what the Board would envision as a working situation.

Mr. Boyd said the primary change is that the PC staff would report to the Commissioners. Right now, staff reports to this Board. The Transition Committee envisioned dividing staff into two groups: one would be responsible for the normal planning functions per the Ohio Revised Code, and the other group would be responsible for CDBG, HOME, and other federal mandates. Mr. Adams said that the MOU attempted to make sure that the Planning Commission was staffed, that there was time to do the necessary Planning Commission functions, and lastly, ensure funding for the Planning Commission. They were concerned that as staff and members of the boards change, there was continuity. They wanted to be sure that the Department's reputation and community confidence is maintained.

#### **The Memorandum of Understanding**

1. The Memorandum of Understanding (MOU) shall be for a period of 5 years. A review of the MOU will be conducted during a 30-day period in the month of December. This review will take place for each of the five years the MOU is in effect. At the end of the five years the MOU will be renewed pending the approval of both the Board of Lake County Commissioners and the Lake County Planning Commission and with the same conditions for implementation and review as exists in this MOU.
2. To support the Planning Commission, statutory duties and responsibilities noted in Ohio Revised Code 713.23 shall be maintained and funded (not by federal revenue

streams) by the Lake County General Fund on an annual basis at a staffing level sufficient to meet the present day demands, but at no time shall the funding level be below the 2011 General Revenue Fund Appropriation. Staffing levels will be recommended by the Director and approved by the Planning Commission members and Board of County Commissioners. Staffing may include unpaid internships, part time employees, full time employees and/or private consultants on a contract basis. Furthermore, office space shall be provided.

3. Planning and zoning functions will be performed in a timely and professional manner for the citizens and communities of Lake County (This will include a wide range of items from lot splits, to comprehensive planning, mandated subdivision review and sub-committee work).
4. To continue the apolitical environment of the Lake County Planning Commission and maintain the integrity and community respect that has arisen as a result, the Board of Lake County Commissioners will seek the advice and consent from the Planning Commission regarding all personal decisions dealing with the Executive Director and planning staff as it relates to the duties defined in 713.23.
5. Employees engaged in traditional planning activities, and funded via the General Revenue Fund, will have the ability to dedicate staff time to Federal Grant related activities when directed by the Executive Director. Said work activities will be tracked independently of traditional planning activities and billed to the appropriate Federal grant.
6. The Planning Commission will have access to other required County agencies/departments to perform the required actions under 713.23 (ex. Prosecutor, County Engineer, Sanitary Engineer, Health District, Soil and Water Conservation District, Stormwater Management Department, and other agencies or departments as deemed necessary by the Executive Director)
7. Federal and State funded programs will be appropriately funded and staffed to ensure, to the highest extent practical, that the time commitment does not infringe upon the demands of statutory planning obligations of staff and the Planning Commission.
8. A job description for the planning activities of the Executive Director (to be created) shall be created by the Planning Commission and shall be included in this MOU.
9. There shall be a clear distinction between job function/responsibilities and funding source. Employees engaged in Federal Grant programs shall be funded 100% with Federal dollars and under 2-year contracts. Should these federal funding sources become zeroed out, these employees will be the first to be terminated.

Mr. Zondag said that as they looked at the set-up and the Executive Director position, responsibilities have to be defined. They could bring in an administrative-type person and that situation would then change the relationship in that that person would not be a planner.

Mr. Adams said that all the members of the Committee were concerned that the federal grants work would overtake the PC work. Therefore, they looked at the possibility of naming Mr. Boyd Executive Director and then hiring a CDBG manager and a PC manager.

Mr. Zondag said they discussed how to protect the integrity of this Department. It must be protected from the outside influence of the dollars it brings to the situation. Fortunately, federal dollars give Mr. Boyd the ability to bring in help.

After discussion, the Committee agreed to read the points of the MOU and to discuss it again at the July meeting.

Ms. Nocero said that this MOU should come from the PC Board, not Mr. Boyd.

Ms. Pesec said that the MOU shall be for a period of 5 years. A review of the MOU will be conducted during a 30-day period in the month of December. At the end, jointly, it can be reviewed in another five years.

Mr. Zondag clarified that it was an annual review in December.

Ms. Pesec quoted #2, "but at no time shall the funding level be below the 2011 General Revenue Fund Appropriation". The intent is that we are required to do all the normal Planning Commission work and we need to make sure we are sufficiently funded. She thought there may not be sufficient money in the future for planning.

Mr. Schaedlich asked if it could be worded to meet present day staffing and funding levels?

Mr. Adams said if they do not have the money they cannot staff.

Ms. Pesec said it would be something along the line of staffing sufficient to accomplish the goals of the ORC.

Mr. Schaedlich said you would have to back it up with the things that were done in the past year to show the need for more staff, at least the same workload if not more.

Ms. Pesec read #3, "Planning and zoning functions will be performed in a timely and professional manner." They thought it was important to list the functions of the PC office including lot splits, comprehensive planning, mandated subdivision reviews and sub-committee work.

Ms. Pesec read #4. A member thought it would be difficult for them to seek the consent of the PC. Right now it is our call.

Ms. Nocero said that instead of using the word "apolitical", use the word "professional".

Mr. Zondag suggested using the term "work cooperatively" instead of "seek the advice and consent from the Planning Commission."

Ms. Pesec said it was important that the Executive Director have good planning skills.

Ms. Pesec read #5, #6, #7, and #8.

Mr. Boyd said everything is funneled from the general fund. He anticipated that for the next couple of years, a portion of the Director's salary will be funded from the general fund and the federal grants based on the time worked and other variables.

Mr. Radachy said there is a job description for each one of our positions and a flow chart.

Ms. Pesec read #9.

Ms. Nocero commented on #5, #7, and #9. The tracking of the federal dollars has to be done by the terms of the federal grants, so this is somewhat redundant. She understood the distinction being made between the federal activities and the planning activities. All employees are employees at will, except maybe the Executive Director and maybe not even him. We do not have contracts in the County, even for the professionals, and there are no Executive Directors in the County.

Mr. Boyd said there is a timeline associated with the grants and when the money is gone, the position is gone.

Ms. Nocero said that the "two-year contracts" should not be in there.

Ms. Pesec said that they would not want someone from the federal grants program to take over planning duties if they were not qualified to do that.

Mr. Zondag said that if employees of the planning side were doing work on the federal side and the money dries up, they wanted to make sure the federally funded employees were the first ones out the door. He understands that the PC is undertaking the MOU with the federal grants.

Ms. Nocero said no. This is between the PC, which is a statutory board and the Board of Commissioners, who are the funders. There are federal dollars coming to the County and

the County is administering the program. The MOU is between the Board of County Commissioners and how they fund the PC. Am I wrong, Jason?

Mr. Boyd said he sees it as a working relationship moving forward with the funds that are provided.

Ms. Nocero said that it is not a memorandum between the federal grants office. It's a memorandum between the Commissioners and this Board which is a statutory board. The statute does not require the Commissioners to fund this Board. It says, "may". So this, as she understands it, consolidation of CDBG program and the PC, is a way to make use of these professionals that you have and to separate some of their duties so that part of their support can be funded by federal dollars, which is permitted, which is why these are sort of redundant because it has to be done this way. Mike Matas and everyone who has looked at this are being very careful. They have spent nine months sorting this out; she just got into it lately. Your MOU is going to be with the Commissioners. So when it gets done, it is going to be the PC and the Board of County Commissioners. You need to be cognizant as to how you want to say these things. Put 5, 7, and 9 in one paragraph because they all say the same thing. Instead of saying traditional planning activities, say statutory.

Mr. Boyd said staff tracks their activities very carefully sorting out federal grant work and planning work.

Mr. Schaedlich asked if they should reduce #9 to just the first sentence?

Ms. Pesec said they are trying to make sure people understand that they are different. Our goal of the PC is to make sure we stay as whole as possible. Now having gone through these points, she asked if anyone had other points?

Mr. Smith asked who hires our staff.

He was told the Planning Commission Board does.

Mr. Smith said, now Jason will become a direct employee of the Commissioners.

Mr. Boyd said, essentially everyone. Currently, the PC board hires us but they do not have any money; it comes from the County Commissioners.

Mr. Radachy said there is nothing mentioned about contracting with other communities. Currently, we have a contract with Fairport Harbor. The PC has the right to enter into contracts.

Ms. Nocero said there is a statutory right to do that and she has been reviewing the by-laws and it is in there.

Ms. Nocero suggested that we state that we would keep the revenue from those activities.

Mr. Boyd said all our financials come and go through the general fund. Deposits are receipted through our office but ultimately end up in the general fund.

Ms. Nocero thought we got to keep the money.

Mr. Boyd said no.

Ms. Nocero thought we could talk to Mr. Matas about adding stipulations about the financial situation.

Mr. Boyd said that we do not carry a balance forward. Last year we receipted \$80,000 from the Balanced Growth Grant but that balance is gone. He said he was supposed to try to get grants to supplement the general fund.

Ms. Nocero said she misunderstood.

Mr. Boyd explained that we cannot use revenue for expenditures the following year or continue to accumulate funds.

Ms. Nocero said she understood.

Mr. Zondag said his long-term concern is that the identity of the PC will be lost in the process because we are getting federal dollars. The whole document is about maintaining the processes of the Board.

Mr. Boyd said he thought planning should have always included the new tasks we are doing now. To him, it made sense. We are typically a greenfield planning agency meaning we develop rural green sites. This program gives us the ability to direct resources into the west end of the county, Fairport, the new redevelopment activities, all in the name of planning and community development. He thought it broadened our planning scope. To him it more resembles a municipal planning organization, looking at the development and the redevelopment. We never looked at the redevelopment side of community development. He saw it as an expansion of our planning duties. His goal is to get the term, federal grants, to go away. He wants it to be whatever the Commissioners call it, the Office of Planning and Community Development.

Ms. Pesec said let me raise one more concern about possible conflicts perceived, real, or whatever. Eastlake, we did a contract for Eastlake so they're giving us money for planning so CDBG funds go to Eastlake and not to Wickliffe, and they have always gone to Wickliffe. And now Wickliffe doesn't get them and Eastlake does and in part, they can claim because we have this, or something like that. So a conflict in that way.



Ms. Nocero said she didn't think so. CDBG grants are so specific. There are lots of communities that are not going to qualify for those grant dollars. It's not going to everybody. You are not doing it. He is.

Mr. Boyd said that he is administering the program. The Commissioners are deciding who gets the grants.

Ms. Pesec said but the Commissioners don't put them all in a hat, close their eyes, and pick one out.

Mr. Adams said he was thinking about that and he did not think there was any money brought to anybody unless they meet certain criteria and qualifications. And if, for instance, Wickliffe wanted to complain because we do a comprehensive plan for Eastlake and they also got CDBG money, then they are going to have to prove that Eastlake did not meet the criteria. He did not see a danger of a conflict as long as everything is done transparently and by the book.

Ms. Nocero said that the PC will not be involved in awarding any of the federal grants. The PC would only be doing the planning side. Mr. Boyd can wear two hats if he is part of the administration of the thing. There shouldn't be any conflict. She couldn't imagine, even the appearance of.

Ms. Pesec said you talked about meeting criteria. Are there criteria that are written?

Mr. Schaedlich and Ms. Nocero said yes.

Mr. Adams said he couldn't imagine federal money going to anybody without a ream of paper being filled out.

Ms. Pesec said she understood from the federal side...maybe many deserving communities would all meet the federal criteria but we do not have the funds to distribute them all out.

Ms. Schaedlich said every year is like that. There really is a situation where they pick and chose. For example, last year we had a storefront renovation in Painesville that went really well. We wanted to continue it this year. Those monies went to Wickliffe, I believe. They had a storefront renovation program. We didn't get anything. We still had a vinyl siding program that was successful and they allowed us to continue that. So they pick and chose to move that money around where they see a need. And we had some success so they figured, OK for now, and stimulating some private investment. Let's try it out in Wickliffe and get them going. So you understand going in that you are not necessarily going to be funded.

Mr. Brotzman asked Russ, who are they that decided Wickliffe and not Painesville?

Mr. Schaedlich said, well, the Commissioners, ultimately.

Mr. Boyd said it is a competitive grant application process that is publicly advertized. The meetings are held, the communities, the non-profit organizations can apply. It's the county staff's job to review that application according to income guidelines, urgent need, and economic development initiatives. We take the consolidated package to the Commissioners and break them down into public improvements, park enhancements, public services, and say they ask for X, here's your funds available, here's what we got from the applicants. That's how it works in Mentor and all the other counties. They are entitled to fund out of the suite of applications who they want. Our job at the PC is to make sure they are eligible, that they meet all the national criteria, have the capacity staff-wise to run the program, and so on.

Mr. Brotzman said, Jason, are you writing some of the block grant request?

Mr. Boyd said he does not write any requests.

Mr. Brotzman said so you are not a grant writer?

Mr. Boyd said he administers the program. The applications as they come in, in accordance with whatever program, that is, CDGF, HOME, energy efficiency, and present all that data to the Commissioners. What he has to do on the federal side is submit annual reports on who did we fund last year, how did they do, how many folks did they serve, and how much investment did it stimulate. He reports what we are going to fund next year. The Commissioners are debating, as we speak.

Ms. Pesec asked if he would be giving any advice on which ones to fund. Would they ever ask your advice as the Director of the Lake County Office of Planning and Community Development?

Mr. Boyd said yes, they will be based on past performance, is it eligible, and similar questions. Russ's example is a good example. We have an applicant in X city. We know it worked over here. Do they have the capacity? Do they have the projects? Do they have the vacancies to do a storefront program? He hasn't yet been in that position but he thinks, he would hope, they would have the faith in the staff as to how the program works and do these projects fit that goal. But ultimately, there is no decision here. There are three mandated meetings. They have to pass the resolution, public hearing and they are all line itemed. X project, X amount.

Ms. Pesec said similarly, on the Board level, is there anything that you need to do? Recuse yourself, or not, or procedures we would need to follow?

Ms. Nocero said we have been looking at the rules and regulations and yes, yours may need some cleaning up. But you're a public board, you are subject to the public ethics laws. So no matter what you put in your rules, you're still a public body. You are subject to the

ethics rules, 102... whatever it is. You are expected to recuse yourself if there is a conflict or if you have an interest in something. Not recuse, abstain. So you are always going to be subject to that.

Mr. Boyd said he did not see a time when this Board would have to take a vote or entertain an issue that deals with a CDBG issue.

Ms. Nocero said no just in general, just talking about conflict in general. That's going to enter anything. You know, Jim's got a client with an application. How long have you been sitting on this Board, Jim.

Jim said, this board? Six months.

Ms. Nocero said if somebody came in who you had a relationship with, you might just want to abstain.

Mr. Pegoraro said his son was in at one of the last meetings and he abstained.

Ms. Nocero said that is the idea. That is the kind of thing you are going to run into. Russ, too. These guys have been around forever. Wally...

Mr. Schaedlich said, I know.

Ms. Nocero said you are always going to be subject to that sort of conflict. I can't imagine that there would ever be a conflict between the federal grant program. Let's not call it that. Let's call it the community development program and planning. That should be... I can't imagine.

Mr. Boyd said nowhere in the statutory duties of this board does it say anything about CDBG.

Ms. Nocero said it does say something about economic development but that is not your doing. You have not taken that on. That has to be a specific thing that the Commissioners say you will do and they have never done that.

Mr. Boyd said that is the Port Authority.

Ms. Nocero said yes, that's why they set up the Port Authority. So you are not, you should be entirely content, not content, that is not the right word, easy about any sort of conflict.

Mr. Smith said the only conflicts he could perceive of is if the planning department gets extremely busy because things pick up in the economy. The CDBG group gets very busy and we don't have enough staff for both. That would be the only real potential problem.

Ms. Nocero said that would be a happy problem to have.

Mr. Smith said he guesses the question comes down to obviously, we couldn't or CDBG couldn't, hire to get up to speed in a month's notice. He guesses the question comes down to can we not have meetings or can we set people aside for the following meeting because there was not adequate time to review them?

The consensus was that we have a statutory time to meet certain requirements.

Mr. Boyd said in that example with current staff, he would put aside the grant stuff to help Mr. Radachy with subdivision work in whatever manner he may need.

Ms. Nocero said that every county department is going through that right now. Her office certainly is. There are people who were let go, people who were out ill. The fact is you have to get it done and the director starts shifting people around and says you can let this CDBG stuff wait because we don't have a time table and we have to get this stuff done. It's not like you have a new staff either. They've worked together so long. Yes, that's a possibility. That would be a happy problem. It probably won't be a while.

Mr. Brotzman said back on ethics, since he's been on the Board, he thought Eric (Condon) requested one time to speak to the Board about ethics. I don't know if you were on the Board or not. It was helpful to have Eric review with us the statutes for this Board and perhaps that is what we need again, since we have some new members, maybe we need that again to help relieve some of your concerns.

Ms. Pesec said it was more like we are going to be working mutually with the Commissioners in terms of hiring a director who is also CDBG familiar so in their potential concerns and conflicts so it was more along those lines. But your point is well taken. It wouldn't be a bad idea to just go though. And you know, we will probably be doing that as we redo the by-laws. We'll go through the changes of the by-laws and at that time it might be a great time to do that.

Ms. Nocero said her office has done that for the ADAMHS Board and other statutory boards so it is not a problem. I don't want to say it's a canned speech but it has been done.

Ms. Pesec asked if there was anything else anyone can think of.

Mr. Schaedlich asked if she would be bringing together a final version for review for the next meeting?

Ms. Pesec said yes.

Ms. Nocero said we had a paragraph in your by-laws, which she is now calling Rules and Regulations, about what we do and what we want authority to do. So we might take a look at that with her edits.

Ms. Pesec said if anyone sees anything in the introduction please note it for the next meeting.

#### CORRESPONDENCE

There was no correspondence.

#### OLD BUSINESS

##### Proposed Lake County Subdivision Regulations Amendments

Mr. Boyd pointed out the proposed changes to the Lake County Subdivision Regulations that were sent out in the packets and he asked that members review them. These are presented in response to a Board recommendation from the last month's meeting. They have to go to public hearing and ultimately to the County Commissioners.

#### NEW BUSINESS

There was no new business.

#### PUBLIC COMMENT

There was no public comment.

#### ADJOURNMENT

Mr. Siegel moved to adjourn the meeting. Mr. Schaedlich seconded the motion.

All voted "Aye".

The meeting adjourned at 8:05 p.m.